

GOVERNMENT OF ANDHRA PRADESH
A B S T R A C T

Social Welfare Department – Appeal petition filed by Sri, K. Kishore Kumar, S/o Late Alfred, Chittoor District filed Under section 7 (2) of Act 16 of 1993 against the orders of the District Collector, Chittoor District – Appeal rejected – Stay continued - Orders – Issued.

SOCIAL WELFARE (CV-1) DEPARTMENT

G.O.Ms. No. 72

Dated: 23-06-2009.

Read the following:

1. Proceedings of the District Collector, Chittoor District, Roc.C3/1507/2003, Dated; 12-07-2006
2. Appeal petition of Sri. K. Kishore Kumar, S/o K. Alfred of Renigunta Village and Mandal Dated: 02-10-2006
3. Govt Memo No. 11992/CV-1/06-1, Dated: 25-10-2006.
4. The District Collector, Chittoor District Roc.C3/10325/06, Dated: 16-11-06

ORDER:

The District Collector, Chittoor District has cancelled the Scheduled Caste Certificate of Sri. K. Kishore Kumar duly declaring that individual does not belong to Adi-Andhra Scheduled Caste community vide Proceedings No. C3/1507/2003, Dated: 12-07-2006.

2. Aggrieved by the Collector's proceedings Sr. K. Kishore Kumar, S/o Late Alfred has filed Appeal petition before Hon'ble Minister of Social Welfare, Government of A.P., may be pleased to suspend the proceedings of the District Collector, Chittoor District, vide Roc.C3/1507/2003, Dated: 12-07-2006 which was illegal, arbitrary, against principals of natural justice on the following grounds:

- a) The order passed by the District Collector, Chittoor dated: 12-7-2006 which was served on him on 13-09-2006 is arbitrary, illegal, contrary to the evidence on record and baseless as such the same is liable to be set aside.
- b) The District Collector, Chittoor has initiated the proceedings Under the Act solely on the basis of the proceedings which are held against the sister of the appellant by name Smt. K.Jhansi Rani, which were suspended by Hon'ble High Court in W.P.M.P. No.22335/2000 in W.P.No.17581/2000 and the same was made absolute by the Hon'ble High Court and the writ petition is still pending consideration on the file of the Hon'ble High Court. Therefore the very basis of initiation of proceedings by the Revenue Divisional Officer herein is baseless and is liable to be set aside.
- c) The respondents herein have no independent evidence or proof to initiate the proceedings against the appellant for cancellation of the caste certificate, and the proceedings against the sister of the appellant, which are no more in force, in view of the orders of the Hon'ble High Court, can't be made / basis to initiate the action.
- d) On their own showing, the table of shown in the impugned order regarding the marriages and their respective caste and religion of the spouses of the sisters and brothers of the appellant would amply falsify the allegation against the appellant and the proceedings initiated.
- e) The impugned proceedings are mechanically initiated and passed against the appellant without appreciating the oral and documentary evidence adduced by the appellant with a predetermined mind.

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- f) The respondents have failed to appreciate that there cannot be any negative evidence to be adduced by the appellant that he is not professing the Christian religion. The appellant has adduced the positive evidence and the real facts and circumstances of his belonging and following to the caste of SC Adi Andhra in observance and practice in all respects. There is no hard and fast rule or any straight jacket formula and procedure to establish that the appellant doesn't belong to the SC Adi Andhra Caste. In a secular state there is no compulsion that any person professing any caste or religion to adopt any fixed or predetermined norms and mode, so as to certify or recognize a person belonging to particular set of caste or religion. As per the norms and established procedure a person is entitled to claim the benefit of the caste of a person to whom he is born belonging to the particular caste or community.
- g) The conclusion drawn by the District Collector, Chittoor on account of the appellant not revealing the clans, customs and traditional activities etc., cannot be a basis against the appellant for initiating or canceling the caste certificate, as the same are not legally necessary for availing the caste status.
- h) The appellant has claimed and established before the Mandal Revenue Officer herein that he is belonging to Scheduled Caste Adi - Andhra Caste / Community and following and practicing since his childhood from class-1 of his education career and from the last more than 30 years. Such established and concluded matter cannot be reopened at this length of time on some baseless allegation, which has no legal basis.
- i) The procedure adopted by the respondents herein for initiating the proceedings against the appellant is absolutely untenable and unsustainable and has no independent basis; as such the same are liable to be set aside.
- j) The District Collector, Chittoor District herein has passed the impugned order in a predetermined manner under the influence of the order passed against the sister of the appellant, which cannot at any stretch of imagination, form the basis for initiation or cancellation of such proceedings, in as much as the reasons and grounds for such action against the sister of the appellant are different for various reasons, such as not claiming the status by her for her, own reasons during her educational period, which cannot be made as a basis against the appellant, since the appellant has claimed and is being recognized and accepted as SC Adi - Andhra for the last over 30years.
- k) The impugned proceedings are baseless, illegal and without jurisdiction and are liable to be set aside by the Hon'ble Government of A.P.,
- l) Consequent to the passing of impugned order the appellant is deprived of his status and benefits as SC Adi Andhra, which the appellant has been enjoying without any hindrance for the last more than 30 years without any legal basis or justification.
- m) The proceedings adopted by the respondents herein for coming to a conclusion against the appellant are untenable and unsustainable and are liable to be set aside.
- n) The appellant herein prays the Govt. of A.P. to treat the explanation submitted by the appellant before the respondents during the enquiry, as part and parcel of this appeal.

3. The Government has stayed the proceedings of the District Collector, Chittoor District and obtained parawise remarks and original connected records vide 3rd and 4th read above respectively, which are as follows:-

i) The District Collector, Chittoor reported that after thorough examination of the report of Revenue Divisional Officer, Thirupathi/the questionnaire presented by the claimant before the District Level Scrutiny Committee and as per the Act 16 of 1993 and A.P., S.C/ST/BC/certificates – Issue of Community, Nativity and Date of Birth Rules 1997 and as per G.O.Ms. 61, Social Welfare (J) Department, dated: 10-04-1990 as reiterated in Govt., Memo No. 18860/J1/90-13, Social Welfare (J1) Department, dt: 28-10-1995 and instructions issued by the Government in Memo No. 1501/B2/79-1 (SW), dt: 11-05-79 and circular Memo No. 10956/CV-1/97-2, Dt: 16-02-1998 of Social Welfare (CV-1) Dept., and taking in to consideration of the orders of the Collector, Chittoor Roc.C3/228/2000, dt: 23-09-2000 in which the Scheduled Caste (Adi-Andhra) caste status of Smt. Jhansi Rani (elder sister of the claimant Sri. Kishore Kumar) was cancelled. The Collector in exercise of the powers conferred under rule 5 (1) of the A.P (SC,ST&BC'S) Regulation of Community, Nativity and Date of Birth Certificates Rules 1997 as communicated vide G.O.Ms. No. 58 of Social Welfare (J) Department, dated: 12-05-1997, cancelled the false "SC Adi-Andhra" Community certificate issued by the then Mandal Revenue Officer, Renigunta in C.No. SC/188/94, Dt: 18-04-1994, and in R.Dis SC/816/93, Dated: 11-10-1993 in favour of the appellant is according to law, weight of evidence and on merits of the case, and there is no evidence recorded contrary to the evidences as contended by the appellant.

ii) The District Collector, Chittoor District has reported that the claimant in the questionnaire submitted before the District Level Scrutiny Committee reveals that the appellant doesn't know the clans, traditional activities and marriage pattern followed by the Adi-Andhra community people. He has not furnished the particulars of his blood relatives and caste status either from maternal and paternal side and further deposed that they are not known to him.

iii) Further, the S.S.L.C register of the father of the appellant Sri. K.Alfred clearly shows that before marriage Sri. K. Alfred follows Christian religion. The same corroborated by Smt. K.S Sundari Alfred, W/o Late Alfred. The District Level Scrutiny also has also observed that even though Smt. K. Jhansi Rani (sister of the claimant Sri. K. Kishore Kumar) claims that she belongs to and claimed the S.C caste certificate for the first time in 1993 and by virtue which she was selected as Assistant Director, Survey and Land Records, Chittoor in 1995, she has never claimed the S.C status either in school or even at the time of her first selection as Co-operative Junior Auditor i.e., prior to the year 1995 which is very surprising and quite unusual. With regard to this she has not stated and produced any evidence in the explanation.

iv) The District Collector has reported that the appellant did not produce any further documentary evidences to substantiate his claim of S.C caste status other than the records already produced before the District Level Scrutiny Committee. According to section 6 of Act 16 of 1993 the burden of proof lies on the claimant to substantiate his "S.C" caste status. After thorough examination of the case, it is decided that the explanation submitted by the candidate belongs to "S.C Adi-Andhra" community cannot be considered.

v) With regard to the Writ Petition of Smt. Jhansi Rani (sister of the appellant herein) filed before the Hon'ble High Court of A.P., it is submitted that the final judgment in this case is still awaited, and that the caste status of the appellant has been examined with reference to the guidelines issued by the Government in determining the caste status of Scheduled Castes as per Act 16 of 1993, Rules 1997 and other evidences, but not merely on the proceedings issued against his sister.

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vi) He has reported that the appellant, during the enquiry before the Revenue Divisional Officer, Tirupathi has deposed that he is the resident of D.No. 6-16, Annadhana Satram of Renigunta village and his age is 30 years and that he is working as Clerk-cum-Cashier in Indian Bank, Bireddipalli. His father by name Sri. K. Alfred married K. Sundari and that he belongs to Adi-Andhra caste and the caste of his mother is Brahmin and that it was inter – caste marriage between his father and mother which took place on 27-05-1964 at Gudur and they were blessed with four male children and three female children and that he is the third issue and that his father worked as Senior Foreman at Puttur, APSEB., till 1993 and died during the year 1996.

vii) The Collector, Chittoor has reported that as per G.O.Ms.No. 1793, Education Department, dt: 23-09-1970 as modified from time to time, the Scheduled Castes converts to Christianity and their progeny were treated as Harijan Converts and placed in List of Socially and Educationally Backward Classes in A.P. under Group-C. The appellant's paternal uncle Sri. Konakaluri Nagarajan, S/o John resident of Renigunta has categorically stated before the revenue authorities that his father Sri John has got three sons they are R. Richard, Rtd., Tahsildar-Elder son living at Nellore; K. Alfred, APSEB Employee, Second son (father of the claimant and Smt. Jhansi Rani); K. Nagaraja, A.P., TRANSCO Employee-third son. His father's name is K. John and mother K. Inakamma. Their parents followed Christian religion and they have been cremated as per Christian rites.

viii) Further when a person is entitled to claim the benefit of the caste of a person to whom he is born and belonging to the particular caste or community as contended by the appellant, what prevented / why not the claimant to claim the caste status of Christianity of Hindu Brahmin community instead of saving 'SC' caste status.

ix) The District Collector, Chittoor has reported that it clearly provided in the Act 16 of 1993, Section 5(1) that when a written complaint / allegation is raised on obtaining of a caste certificate, the Collector/Competent authority may call for record and enquire the matter at any time.

x) The appellant's caste status has examined by adopting relevant Acts and Rules / Guidelines / Government instructions / Government orders etc. Hence, the contention of the appellant that the respondents didn't follow procedure in determining the caste status of the claimant is false and after thought.

xi) He has reported that the appellant has submitted his school records as proof of his caste that he belongs to SC (Adi-Andhra). But, as per G.O.Ms.No.61, Social Welfare (J) Dept., dated: 10-4-1990 reiterated in Govt. Memo No.18860/J1/90-13, Social Welfare (J1) Dept., dt: 28-10-1995 it has been clarified that "the entries relating to School records should not be taken into consideration as authentication proof of a social status of a person claiming SC/ST unless the enquiry is conducted against such person is proved to be correct or not". and that the sustainability of the caste status clearly lies on the claimant only. But, the appellant has failed to produce the evidences in support of his defence.

xii) Further, as per Section 5(1) of AP., SC/ST/BC Certificates – Regulation of issue of community certificates Act 1993 "Where, before or after the commencement of this Act a person not belonging to any of the SCs/STs/BCs has obtained a false community certificate to the effect that either himself or his children belongs to such castes, tribes or classes, the District Collectors may either suo-moto or on a written complaint by any person, call for the record and enquire into the correctness of such certificate and if he is of the opinion that the certificate was obtained fraudulently, he shall, by notification, cancel the certificate after giving the person concerned an opportunity of making a representation".

xiii) In the circumstances above, the District Collector, Chittoor District vide Roc.C3/1507/2003, Dated; 12-07-06 has cancelled the Scheduled Caste Adi-Andhra Caste Certificate is according to Law and merits.

P.T.O.,

4. The case has been taken up for personal hearing before appellate authority on 16-06-08 and appellant present before appellate authority and produced a copy of the absolute stay granted by the Hon'ble High Court on orders of Joint Collector canceling the caste certificate of his sister Smt. K. Jhansi Rani.

5. In the above circumstances and in exercise of the powers conferred under Section 7(2) of A.P. (SC, ST and B.C. Regulation of issue of Community Certificates) Act 16 of 1993, and rules made under as per G.O.Ms. No. 58, SW (J) Department, dated: 12-05-1997, the Government after careful examination of the appeal petition filed by Sri. K. Kishore Kumar, S/o K. Late Alfred, Chittoor District is hereby rejected, duly upholding the Proceedings of the Collector and District Magistrate, Chittoor District in Proceedings Roc.C3/1507/2003, Dated; 12-07-2006.

6. However, the stay granted by the Government vide Memo. No.11992/CV-1 /2006, dt: 23-10-06 continued till the final out come of the case in W.P. No. 17581/2000 filed by Smt. K. Jhansi Rani, sister of Sri. K. Kishore Kumar is pending before the Hon'ble High Court, the District Collector has to take necessary action accordingly.

7. The records received from the District Collector, Chittoor District, through 4th read above, are returned herewith in original (containing pages 1-369 C.F., and pages 1-24 N.F.,) to him and he is requested to acknowledged receipt of the same, immediately

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHA PADESH)

**V. NAGI REDDY
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The District Collector,
Chittoor District (with original records)
Sri. Kishore Kumar Konakaluri,
S/o Late Alfred, R/o D.No. 6-16,
Annadanam Choultry Street,
Renigunta (V&M),
Chittoor District.

The Branch Manager,
Indian Bank, Pachikapallam,
Vedurukuppam (M),
Chittoor District.

Copy to:

P.S to M (SW)

P.S to Prl. Secy (SW)

SF/SC

(Copy of this order is available on internet and
can be accessed at <http://goir.ap.gov.in/>)

//FORWARDED: BY ORDER//

SECTION OFFICER